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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,927	03/16/2005	Michael Bohmer	10537/284	6965
26646	7590	10/16/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			WHITE, RODNEY BARNETT	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/506,927

Applicant(s)

BOEHMER ET AL.

Examiner

Rodney B. White

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-13, 21 and 22 is/are rejected.
- 7) ☒ Claim(s) 14-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Applicant has submitted two (2) Abstracts of the Disclosure, both submitted on 09/07/2004. One of the Abstracts is the Abstract from PCT/EP03/01268 filed 02/08/2003, which is WO 03/074321 A1 document. In that Abstract, Applicant includes the word "invention" and also uses language such as "said", both of which is improper language for the Abstract. If this Application is allowed and goes to print, it is not clear as to which one of the Abstracts would be printed, although the one filed with the pre-amendment should be printed. Applicant should submit an amended Abstract if a Response or an Amendment is filed in response to this office action, even if Applicant simply re-submits the one filed with the pre-amendment because there have been instances where the Publications branch of the USPTO have printed the incorrect

Art Unit: 3636

drawings when formal or corrected drawings were submitted by the Applicant. This request is only precautionary. Correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Art Unit: 3636

Claims 9-11 and 21-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Brennan et al (U.S. Patent No. 4,509,795).

Brennan et al teaches a vehicle seat, comprising: a seat cushion; and a lower leg support 20 pivotably fastened to the seat cushion, infinitely variably moveable between a stowaway position and a position of use and fixable in a freely selectable position, the lower leg support including an overload safeguard device (see column 4, lines 30-58 and claim 5) configured to release fixation of the lower leg support in response to an overload to allow the lower leg support to give way in response to the overload, further comprising an inclination-adjustment device, the lower leg support pivotably connected to a frame of the seat cushion by the inclination-adjustment device, wherein the inclination-adjustment device is configured as self-locking, the overload safeguard device arranged to interact with the inclination-adjustment device to release the self-locking of the inclination-adjustment device in response to the overload to allow the lower leg support to pivot freely in response to the overload, wherein the vehicle seat is configured as a rear vehicle seat.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al in view of Schunke et al (U.S. Patent No. 7,017,439 B2).

Brennan et al teaches the structure substantially as claimed but does not teach that the inclination device includes an electrical driving motor. However, Schunke et al teaches the concept of an inclination-adjustment device including an electric driving motor arranged to pivot a lower leg support. The electrical driving motor taught in the Schunke et al patent even teaches an overload relay and could easily support a overload safety device. It would have been obvious and well within the level of ordinary skill in the art to modify the inclination-adjustment device, as taught by Brennan et al, to include an electric drive motor, as taught by Schunke et al, since a motor would make adjustments of the footrest easier than manual adjustment.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al in view of Enno (U.S. Patent No. 6,929,323 B2).

Enno teaches the structure substantially as claimed but does not teach that the inclination device includes an electrical driving motor. However, Enno teaches the concept of an inclination-adjustment device including an electric driving motor arranged to pivot a lower leg support. It would have been obvious and well within the level of ordinary skill in the art to modify the inclination-adjustment device, as taught by Brennan et al, to include an electric drive motor, as taught by Enno, since a motor would make adjustments of the footrest easier than manual adjustment.

Art Unit: 3636

Claims 14-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Martin, Wayland, Arnold, Fowler et al, Marais, Kasahara, Plant, Marcantoni, Beroth et al, Uchiyama, Hagiike, Marechal et al, Menard, Abt et al, and Enno teach similar structures and concepts to those of the present invention.

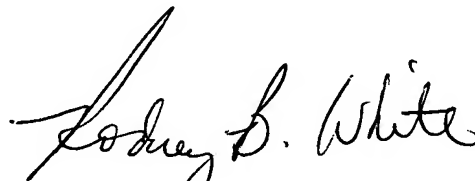
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (571) 272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
October 6, 2006

A handwritten signature in black ink that reads "Rodney B. White". The signature is written in a cursive style with a large, stylized "R" and "W".

RODNEY B. WHITE  
PRIMARY EXAMINER